

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

**MASSACHUSETTS INSTITUTE OF  
TECHNOLOGY,**

**Plaintiff,**

**v.**

**HARMAN INTERNATIONAL INDUSTRIES,  
INCORPORATED,  
A Delaware Corporation,**

**Defendant.**

**Case No: 05-10990 DPW**

**DEFENDANT HARMAN'S PARTIAL WITHDRAWAL OF ITS MOTION TO DISMISS  
& STIPULATED BRIEFING SCHEDULE**

On June 10, 2005, defendant Harman International Industries, Inc. ("Harman") filed its Motion to Dismiss, in which Harman: (1) challenged this Court's exercise of personal jurisdiction over Harman pursuant to Federal Rule of Civil Procedure 12(b)(2); and (2) challenged venue in this Court pursuant to Rule 12(b)(3) and the first-to-file rule (contending this action should be dismissed in favor of Harman's first-filed action for declaratory judgment in the United States District Court for the Northern District of Illinois). To facilitate the swift adjudication of the Motion to Dismiss, Harman respectfully withdraws the first ground of its motion, namely its challenge to the exercise of personal jurisdiction by this Court.

In support of the Motion to Dismiss, Harman continues to rely upon its arguments arising under the first-to-file rule as briefed in its Memorandum in Support of its Motion to Dismiss filed on June 10, 2005.

**STIPULATED BRIEFING SCHEDULE**

Harman's counsel conferred today with MIT's counsel regarding this motion and stipulated briefing schedule. Counsel for Harman has been authorized by counsel for MIT to represent that MIT stipulates to Harman filing a reply in support of this motion. Counsel for Harman has also been authorized to represent that the parties have agreed to a stipulated briefing schedule for this motion as follows:

MIT's Response Due: July 15, 2005

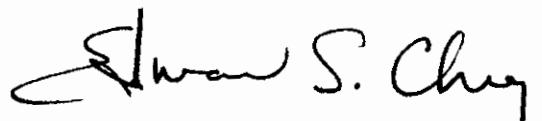
Harman's Reply Due: July 29, 2005

WHEREFORE, defendant Harman respectfully requests that the Court adopt the parties' stipulated briefing schedule, and allow Harman's Motion to Dismiss pursuant to Rule 12(b)(3) and the first-to-file rule.

Respectfully submitted,

HARMAN INTERNATIONAL  
INDUSTRIES, INC.

By its attorneys,



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Dated: June 30, 2005

**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY THAT A TRUE COPY OF  
THE ABOVE DOCUMENT WAS SERVED  
UPON THE ATTORNEY OF RECORD  
FOR EACH OTHER PARTY ~~BY MAIL~~**

**(BY HAND) ON June 30, 2005**

*Eric S. Chen*